Task: Comply With the Uniform Code of Military Justice (UCMJ)

Number: 181-101-1013

Effective Date: 2000-May-11

Enlisted MOS: STP:

COM Skill Level 1 STP 21-1-SMCT

Conditions: You are a soldier in the U.S. Army. As a soldier, you are responsible for identifying, understanding, and complying with the provisions of the U.S. Army's military justice system, including the Uniform Code of Military Justice (UCMJ). You must understand the ramifications you might face for violating the UCMJ, your Commander's disciplinary options, and your legal rights in these proceedings.

Standards: Identify, understand, and comply with the provisions of the U.S. Army's military justice system, including the Uniform Code of Military Justice (UCMJ). Understand the potential ramifications for violating the UCMJ, the Commander's disciplinary options, and the soldier's legal rights in these proceedings.

Performance Steps

- 1. Define Military Justice.
- 2. Describe the Military Justice System.
 - a. Describe the purpose of the Military Justice System.
 - b. Describe the similarities and differences between the Military Justice System and the American civilian legal system.
 - c. Describe the Uniform Code of Military Justice (UCMJ) an to whom it applies.
 - (1) Identify who the UCMJ applies to.
- 3. Identify who has authority to take disciplinary action against a soldier for misconduct.
- 4. Describe a Commander's responsibility to conduct a preliminary investigation into misconduct allegedly committed by a soldier under his/her command.
 - a. Describe the basis and procedures of a Commander's Inquiry.
 - b. Describe the basis and procedures of an AR 15-6 Investigation.
 - c. Describe the requirement for the military police or Criminal Investigation Command (CID) to conduct a criminal investigation.
- 5. List the disciplinary options available to the Commander.
 - Describe how a Commander can take no action at all or close a case.
 - b. Describe how a Commander can use administrative or nonpunitive measures.
 - (1) List administrative or nonpunitive disciplinary measures available to a Commander.
 - (2) Describe why a Commander may wish to use nonpunitive or administrative disciplinary measures rather than impose nonjudicial punishment or proceed to court-martial.
 - c. Define nonjudicial punishment and how a Commander can use nonjudicial punishment.
 - (1) Define nonjudicial punishment.

- d. Define judicial punishment and how a Commander can use judicial punishment.
 - (1) Define judicial punishment.
- 6. List factors a Commander should consider when determining what disciplinary option to pursue.
 - a. Describe whether a Commander should consider the character and military service of the accused.
 - b. Describe whether a Commander should consider the nature and circumstances of the offense and the extent of the harm caused.
 - c. Describe whether a Commander should consider the needs of the Service and the probable effect of his/her decision on the command and the military community.
 - d. Describe whether a Commander should consider the disposition of similar offenses in the past and the general disciplinary trends within the command.
 - e. Describe whether a Commander should consider the appropriateness of the authorized punishment to the particular accused and offense.
 - f. Describe whether a Commander should determine whether he/she has jurisdiction over the accused and the offense.
 - g. Describe whether a Commander should consider the availability and admissibility of evidence against the accused.
 - h. Describe whether a Commander should consider the cooperation of the accused in the apprehension or conviction of others.
 - Describe whether a Commander should consider the possible improper motives of the accuser.
 - j. Describe whether a Commander should consider that the victim or others are reluctant to testify.
- 7. Describe nonpunitive or administrative disciplinary actions.
 - a. Define an admonition or reprimand.
 - (1) Describe the purposes of an admonition or reprimand.
 - (2) Describe whether an admonition or reprimand may be in writing, orally, or both.
 - (3) Describe the soldier's legal rights in regards to an admonition or reprimand.
 - (4) Describe the Commander's filing determination for a written admonition or reprimand.
 - (5) Describe whether an administrative admonition or reprimand is punitive.
 - b. Define counseling of a soldier.
 - (1) Describe the purpose for counseling.
 - (2) Describe whether counseling may be in writing, orally, or both.
 - (3) Describe the soldier's rights during counseling.
 - (4) Describe where a Commander may file a written counseling statement.
 - c. Define withholding a soldier's privileges as an administrative disciplinary action.
 - (1) Describe the purpose for withholding privileges.
 - (2) Describe what privileges may be withheld and under what circumstances.
 - d. Define extra duty as an administrative disciplinary action.
 - (1) Describe the purpose of extra duty.
 - (2) Describe what forms or methods of extra duty may be imposed and under what circumstances.
 - (3) Describe the requirement that the extra duty must be tailored to address the training deficiency, and not used as punishment.
 - e. Define Administrative Separations.
 - (1) List Administrative Separations available under AR 635-200.
 - (2) Describe the purposes for an Administrative Separation action.
 - (3) Describe the procedures for an Administrative Separation action.
 - (4) Describe the circumstances under which a soldier is entitled to an Administrative Separation board.
 - (a) Describe the composition of an Administrative Separation board.
 - (b) Describe the duties and responsibilities of an Administrative Separation board.

- (5) Describe a soldier's right to legal counsel for consultation and/or representation during an Administrative Separation action.
- (6) Describe the types of discharges a soldier may receive from an Administrative Separation action.
- (7) Identify the approval authority for an Administrative Separation action.
- 8. Describe nonjudicial, or Article 15, punishment.
 - a. List who may impose nonjudicial or Article 15 punishment.
 - (1) Define who constitutes a "Commander".
 - (2) Describe a Superior Commander's authority to withhold nonjudicial or Article 15 authority over specific offenses or persons.
 - (3) Describe the prohibition against a Superior Commander directing a Subordinate Commander to take action under Article 15 or dictating to the Subordinate Commander the type or quantity of punishment to be administered under Article 15.
 - b. Describe the circumstances under which a Commander may wish to impose nonjudicial or Article 15 punishment.
 - c. Describe the advantages of disposing of offenses by imposing nonjudicial or Article 15 punishment.
 - d. Describe for which offenses a Commander may impose nonjudicial or Article 15 punishment.
 - e. Define a "minor" offense under the Uniform Code of Military Justice (UCMJ).
 - f. Define a "Summarized" Article 15 and a "Formal" Article 15.
 - g. List the procedures and maximum punishment that may be imposed by a Summarized Article 15
 - h. Define a "Company Grade" Article 15 and a "Field Grade" Article 15.
 - (1) Describe the time period in which a soldier must make this decision.
 - i. Describe an accused soldier's legal rights under nonjudicial or Article 15 punishment, including the right to consultation or representation by a defense counsel.
 - j. Describe a soldier's right to turn down an Article 15 and demand trial by court-martial and the time period in which the soldier must make this decision.
 - k. Describe the procedures of a nonjudicial or Article 15 hearing.
 - I. Describe the Standard of Proof required when imposing nonjudicial or Article 15 punishment.
 - m. Describe the maximum punishments that may be imposed by a Company Grade or Field Grade Article 15.
 - n. Describe a soldier's appellate rights subsequent to an Article 15 action.
 - (1) Describe who serves as the appellate authority.
 - (2) Describe the time period to act on an appeal.
 - (3) Describe the actions that the appellate authority may take.
- 9. Define "preferral" of court-martial charges.
 - a. Identify who may prefer a court-martial charge.
 - b. Describe the requirement and procedures typically used to notify the accused of the charges as soon as possible after preferral.
- 10. Define "Pretrial Restraint" of a soldier.
 - a. Define the purposes of pretrial restraint.
 - b. List the types of restraint.
 - (1) Define apprehension and its purpose.
 - (a) List who is authorized to apprehend persons subject to the UCMJ.
 - (b) List the factors that must be present and later articulated in order to properly apprehend a person subject to the UCMJ.
 - (2) Define conditions on liberty and its purpose.
 - (3) Define restriction, its purpose, and whether a soldier may be required to perform military duties while on restriction.
 - (a) Describe whether a soldier may be required to perform military duties while on restriction.

- (4) Define arrest, its purpose, and the differences between arrest and restriction.
 - (a) Describe the differences between arrest and restriction.
- (5) Define confinement and its purpose.
 - (a) Define the factors that must exist in order to properly place a soldier in pretrial confinement.
 - (b) Identify who has the authority to place a soldier in pretrial confinement.
 - (c) Describe the review and approval procedures for pretrial confinement.
- 11. Define "referral" of court-martial charges and identify who may refer a court-martial charge.
 - a. Identify who may refer a court-martial charge.
- 12. Define "convening authority" for a court-martial and identify the duties and responsibilities of a convening authority.
 - a. Identify the duties and responsibilities of a convening authority.
- 13. List the different levels of courts-martial.
 - a. Define a Summary Court-Martial.
 - (1) Identify who is the convening authority for a Summary Court-Martial.
 - (2) Describe what type of offenses are typically handled by a Summary Court-Martial.
 - (3) Describe what soldiers may be tried by a Summary Court-Martial.
 - (4) Describe whether a military judge presides at a Summary Court-Martial.
 - (5) Describe who is the presiding official at a Summary Court-Martial.
 - (6) Describe whether a jury or panel exists at a Summary Court-Martial.
 - (7) Describe whether an accused is entitled to be represented by defense counsel at a Summary Court-Martial.
 - (8) Describe the requirement for a soldier to consent to trial by Summary Court-Martial.
 - (9) Describe what happens if an accused refuses trial by Summary Court-Martial.
 - (10) Describe the procedures of a Summary Court-Martial.
 - (11) Describe the Standard of Proof for conviction at a Summary Court-Martial.
 - (12) Identify who must establish or meet the Standard of Proof.
 - (13) Describe the maximum punishment that a Summary Court-Martial may impose.
 - (14) Describe the appellate rights of a soldier tried and convicted by a Summary Court-Martial.
 - b. Define a Special Court-Martial.
 - (1) Identify who is the Convening Authority for a Special Court-Martial.
 - (2) Describe what soldiers may be tried by a Special Court-Martial.
 - (3) Describe whether a military judge presides at a Special Court-Martial.
 - (4) Describe the duties and responsibilities of a military judge at a Special Court-Martial.
 - (5) Describe whether a jury or panel exists at a Special Court-Martial and its composition.
 - (a) Describe the duties and responsibilities of a jury or panel at a Special Court-Martial.
 - (b) Describe the minimum number of jury or panel members.
 - (6) Describe whether an accused is entitled to be represented by defense counsel at a Special Court-Martial.
 - (7) Describe the requirement for a trial counsel to represent the U.S. Government at a Special Court-Martial.
 - (8) Describe the procedures of a Special Court-Martial.
 - (a) Identify who must establish or meet this Standard of Proof.
 - (9) Describe the Standard of Proof for conviction at a Special Court-Martial and identify who must establish or meet this Standard of Proof.
 - (10) Describe the maximum punishment that a Special Court-Martial may impose.
 - (11) Describe a soldier's appellate rights if convicted by a Special Court-Martial.
 - (12) Describe the differences between a Special Court-Martial and a Special Court-Martial empowered to adjudge a Bad Conduct Discharge.

- c. Define a General Court-Martial.
 - (1) Identify who convenes a General Court-Martial.
 - (2) Describe what soldiers may be tried by a General Court-Martial.
 - (3) Describe what type of offenses are typically tried by a General Court-Martial.
 - (4) Describe the requirement and procedures for a pre-trial investigation, or Article 32 investigation, prior to convening a General Court-Martial.
 - (5) Describe whether a military judge presides at a General Court-Martial.
 - (6) Describe the duties and responsibilities of a military judge at a General Court-Martial.
 - (7) Describe whether a jury or panel exists at a General Court-Martial and its composition.
 - (a) Describe the duties and responsibilities of a jury or panel at a General Court-Martial.
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 - (11) Describe the Standard of Proof required for conviction at a General Court-Martial and identify who must establish or meet this Standard of Proof.
 - (12) Describe the maximum punishment that a General Court-Martial may impose.
 - (13) Describe a soldier's appellate rights if convicted by a General Court-Martial.

Evaluation Preparation: Setup: Evaluate this task at the end of military justice training.

Brief Soldier: Tell the soldier that he or she will be evaluated on his or her ability to identify, understand, and comply with the provisions of the U.S. Army's military justice system, including the Uniform Code of Military Justice (UCMJ). Tell the soldier that he or she will also be evaluated on his or her ability to understand the potential ramifications for violating the UCMJ, the Commander's disciplinary options, and the soldier's legal rights in these proceedings.

Performance Measures	<u>GO</u>	NO GO
Defined Military Justice.		
 Described the Military Justice System. Described the purpose of the Military Justice System. Described the similarities and differences between the Military Justice System and the American civilian legal system. Described the Uniform Code of Military Justice (UCMJ) and to whom it applies.		
3. Identified who has authority to take disciplinary action against a soldier for misconduct.		
 4. Described a Commander's responsibility to conduct a preliminary investigation into misconduct allegedly committed by a soldier under his/her command. a. Described the basis and procedures of a Commander's Inquiry. b. Described the basis and procedures of an AR 15-6 Investigation. 		

c. Described the requirement for the military police or Criminal Investigation

Command (CID) to conduct a criminal investigation.

- 5. Listed the disciplinary options available to the Commander.
 - a. Described how a Commander can take no action at all or close a case.
 - Described how a Commander can use administrative or nonpunitive measures
 - (1) Listed administrative or nonpunitive disciplinary measures available to a Commander.
 - (2) Described why a Commander may wish to use nonpunitive or administrative disciplinary measures rather than impose nonjudicial punishment or proceed to court-martial.
 - c. Defined nonjudicial punishment and how a Commander can use nonjudicial punishment.
 - (1) Defined nonjudicial punishment.
 - d. Defined judicial punishment and how a Commander can use judicial punishment.
 - (1) Defined judicial punishment.
- 6. Listed factors a Commander should consider when determining what disciplinary option to pursue.
 - a. Described whether a Commander should consider the character and military service of the accused.
 - b. Described whether a Commander should consider the nature and circumstances of the offense and the extent of the harm caused.
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 - b. Defined counseling of a soldier.
 - (1) Described the purpose of counseling.

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 - e. Defined a "minor" offense under the Uniform Code of Military Justice (UCMJ).
 - f. Defined a "Summarized" Article 15 and a "Formal" Article 15.
 - g. Listed the procedures and maximum punishment that may be imposed by a Summarized Article 15.
 - h. Defined a "Company Grade" Article 15 and a "Field Grade" Article 15.
 - (1) Described the time period in which a soldier must make this

decision.

- Described an accused soldier's legal rights under nonjudicial or Article 15 punishment, including the right to consultation or representation by a defense counsel.
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- 12. Defined "convening authority" for a court-martial identified the duties and responsibilities of a convening authority.
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- 13. Listed the different levels of courts-martial.
 - a. Defined a Summary Court-Martial.
 - Identified who is the convening authority for a Summary Court-Martial.
 - (2) Described what type of offenses are typically handled by a Summary Court-Martial.
 - (3) Described what soldiers may be tried by a Summary Court-Martial
 - (4) Described whether a military judge presides at a Summary Court-Martial.
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 - (11) Described a soldier's appellate rights if convicted by a Special

Court-Martial.

- (12) Described the differences between a Special Court-Martial and a Special Court-Martial empowered to adjudge a Bad Conduct Discharge.
- c. Defined a General Court-Martial.
 - (1) Identified who convenes a General Court-Martial.
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Evaluation Guidance: Score the soldier GO if all performance measures are passed. Score the soldier NO GO if any performance measure is failed. If the soldier scores NO GO, show what was done wrong and how to do it correctly.

References:	

Number Required Title

Certifications Required: None.

Supporting Individual Tasks: None.

Supported Drills: None.